

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition No.: 46-022-06-1-5-00316
Petitioners: Craig and Margaret Chapello
Respondent: LaPorte County Assessor
Parcel No.: 42-01-21-256-055
Assessment Year: 2006

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioners initiated an assessment appeal with the LaPorte County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated July 26, 2007.
2. The PTABOA issued a notice of its decision on June 26, 2008.
3. The Petitioners filed a Form 131 petition with the Board on July 23, 2008. The Petitioners elected to have their case heard pursuant to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated December 1, 2010.
5. The Board held an administrative hearing on January 6, 2011, before the duly appointed Administrative Law Judge (the ALJ) Ellen Yuhan.
6. Persons present and sworn in at hearing:

For Petitioner: Craig A. Chapello, Property owner,

For Respondent:¹ Judy Anderson, Deputy County Assessor.

Facts

7. The subject property is house located at 1209 Lakeshore Drive, Michigan City.
8. The ALJ did not conduct an on-site visit of the property.

¹ Marilyn Meighen, Meighen & Associates, PC, appeared as counsel for the Respondent.

9. For 2006, the PTABOA determined the assessed value of the subject property to be \$336,700 for the land and \$353,300 for the improvements, for a total assessed value of \$690,000.
10. The Petitioners requested an assessment of \$168,200 for the land and \$353,300 for the improvements, for a total assessed value of \$521,500.²

Issues

11. Summary of the Petitioners' contentions in support of an error in their property's assessment:
 - a. The Petitioners contend that their property is over-assessed based on its appraised value. *Chapello testimony*. In support of this contention, Mr. Chapello presented an appraisal prepared by a licensed Indiana residential appraiser in accordance with the Uniform Standards of Professional Appraisal Practice. *Petitioner Exhibit 1*. The appraiser valued the Petitioners' property at \$521,500 as of December 31, 2005. *Id.* Mr. Chapello further contends that the sales cited in the appraisal are all within the 18-month time frame used for the January 1, 2005, valuation date. *Id.*
 - b. Mr. Chapello admitted that an earlier appraisal valued the property at \$597,000 as of December 31, 2005. *Chapello testimony*. However, he argues, the appraiser made a mathematical error in valuing the lot size on the appraiser's first comparable property.³ *Chapello testimony; Respondent Exhibit B*. According to Mr. Chapello, the appraiser inadvertently adjusted the sale price upward \$150,000 when the sale price should have been adjusted downward because the comparable property had a substantially larger lot. *Id.* Mr. Chapello testified that Petitioner Exhibit 1 is the corrected version of the appraisal. *Chapello testimony; Petitioner Exhibit 1*.
 - c. The Petitioners also contend the living area of their house was assessed incorrectly. *Chapello testimony*. According to Mr. Chapello, the house was assessed with 4,784 square feet of living area as shown in the "Summary of Improvements" on the property record card. *Id.; Petitioner Exhibit 3*. Mr. Chapello claims the proper square footage should be 1,196 sq.ft. for the first floor, 1,196 sq.ft. for the second floor and 588 sq.ft. of finished attic, or 2,980 sq.ft. *Chapello testimony; Petitioner Exhibit 17*. If the correct living area is

² The Petitioners stated on their Form 131 that the values they allocated to the land and to the improvements were not fixed, but equaled the appraised value.

³ Ms. Meighen objected to the Petitioners' explanation for the corrected appraisal as mere speculation because the appraiser was not present. The Board, viewing this as a hearsay objection, over-ruled the objection because, 52 IAC 2-7-3 states that hearsay evidence "may be admitted." If the evidence is objected to and does not fall within a recognized exception to the hearsay rule, however, "the resulting determination may not be based solely upon the hearsay evidence."

used, Mr. Chapello argues, the improvement value of the Petitioners' home would be \$260,694.⁴ *Id.*

- d. The Petitioners further argue that their land value is not uniform with the surrounding properties. *Chapello testimony*. In support of this contention, Mr. Chapello presented a plat map and the property record cards for two lots immediately to the west of the Petitioners' property and one lot across the street from their house. *Petitioner Exhibits 2, 4, 5, and 6*. According to Mr. Chapello, the neighboring lots are the same size as their property but they are assessed at \$135,200 each. *Chapello testimony*. The Petitioners' land, on the other hand, is assessed at \$336,700. *Id.*
- e. Similarly, the Petitioners argue that their land value does not factor in the property's use restrictions and easements. *Chapello testimony*. According to Mr. Chapello, the Petitioners cannot build on 42% of their property because of a 49 foot landscape easement and an ingress/egress easement of 35 feet. *Id.*; *Petitioner Exhibits 2 and 17*. For this reason, Mr. Chapello argues their land value should be computed on a smaller area and the land value reduced to account for the 42% limitation. *Id.* In response to questioning, Mr. Chapello testified that he was not an appraiser, so he could not pinpoint the decrease in the property's value due to the easements, but he contends that lot 12 was given a 25% influence factor for the same ingress/egress easement that affects the Petitioners' property. *Chapello testimony*.
- f. The Petitioners also contend that the county's neighborhood selection and trending was not done properly. *Chapello testimony*. According to Mr. Chapello, their neighborhood is comprised of 21 random parcels spread over nine blocks, excluding many houses in between. *Id.*; *Petitioner Exhibits 8, 9, and 17*. Mr. Chapello argues that part of the definition in the 2002 Real Property Assessment Guidelines is for the neighborhood to be geographical. *Chapello testimony*; *Petitioner Exhibit 17*. Furthermore, Mr. Chapello testified that the Petitioners' home is in a community called Beachwalk, which is a private community that assesses its residents \$2,100 a year for services. *Id.* Because of the neighborhood assessment, Mr. Chapello contends, it was improper to include other homes in the neighborhood. *Id.* At a minimum, he argues, an allowance should be applied to the Petitioners' assessment to account for the neighborhood fees. *Id.*
- g. Additionally, the Petitioners contend that the properties the assessor used for trending are not comparable to their property. *Chapello testimony*; *Petitioner Exhibit 17*. In support of this contention, the Petitioners presented photographs and a property record card for 1123 Lakeshore Drive, photographs of 1853 Lakeshore Drive, 1855 Lakeshore Drive, and 1857

⁴ Mr. Chapello derived his value by multiplying 2,980 square feet by the square foot value of \$42.665 that he contends the assessor used in computing the total value (\$203,160/4,784 square feet) and then multiplying by the 2.06 market adjustment shown on the property record card.

Lakeshore Drive, and listing information for 1855 Lakeshore Drive and 1857 Lakeshore Drive. *Petitioner Exhibits 7, 12, and 13.* According to Mr. Chapello, 1123 Lakeshore Drive is a home in the Beachwalk community that sold in 2003 for \$770,000. *Chapello testimony.* However, he argues, the property has a coach house valued at \$100,000 and it also has better finishes than their home, such as a metal roof, granite countertops, marble in the bathrooms, and stainless steel appliances. *Id.* Mr. Chapello contends that if the sale price is adjusted for the coach house, the metal roof, and the additional living area, the resulting value supports his appraisal of \$521,500. *Id.* Further, Mr. Chapello argues, 1853 Lakeshore Drive, 1855 Lakeshore Drive, and 1857 Lakeshore Drive are located approximately six blocks from their property and are not part of the Beachwalk community subject to the neighborhood assessment. *Id.* According to Mr. Chapello, the houses were built in 2004, making them newer and more valuable than his property. *Id.* Further, they all have four complete levels and attached two-car garages. *Id.* More importantly, he argues, all three properties sit approximately thirty feet higher than the street, giving them lake views from the ground floor, which the Petitioners' property does not have. *Id.*

- h. Moreover, the Petitioners contend, the assessor failed to use the sale of the property located next to the Petitioners' house in determining the value of their property. *Chapello testimony.* According to Mr. Chapello, 1205 Lakeshore Drive sold in May 2003 for \$567,000. *Id.; Petitioner Exhibit 10.* Mr. Chapello contends that, unlike the Petitioners' property, the neighboring property has a two-garage with an apartment valued at \$91,000. *Petitioner Exhibit 6.* Mr. Chapello argues that, assuming a generous 8% inflation rate, the property would be valued at \$623,700 as of the valuation date, which subtracting the \$91,000 for the garage and apartment, results in a value that supports the Petitioners' property's appraised value of \$521,500.⁵ *Chapello testimony; Petitioner Exhibit 17.*
 - i. Finally, the Petitioners contend that the Department of Local Government Finance found in a detailed report that the assessment in LaPorte County was not properly conducted. *Chapello testimony; Petitioner Exhibit 15.* According to Mr. Chapello, given this finding, any assessment by the LaPorte County Assessor should be given no weight by the Board. *Chapello testimony; Petitioner Exhibit 17.*
12. Summary of the Respondent's contentions in support of the assessment:
- a. The Respondent's counsel argues that the Petitioners' appraisal should be given no weight. *Meighen argument.* According to Ms. Meighen, the same appraiser estimated two very different values for the subject property using the same comparable properties and the same valuation date. *Id.* In support

⁵ Mr. Chapello argues that the March 1, 2006, assessment of 1205 Lakeshore Drive was \$622,300, which supports his 8% inflation assumption. *Chapello testimony.*

of this contention, the Respondent submitted both appraisals prepared by Mr. Pezzuto; one, dated September 11, 2007, estimating the value of the property to be \$597,000 as of December 31, 2005, and one dated February 29, 2008, estimating the value of the property to be \$521,500 as of December 31, 2005. *Respondent Exhibits B and C*. According to the Respondent's witness, Ms. Anderson, in the September 11, 2007, appraisal, the appraiser made a positive site adjustment of \$150,000 for the first comparable property and \$60,000 for the third comparable property. *Anderson testimony; Respondent Exhibit B*. In the February 29, 2008, appraisal, however, the appraiser made a negative site adjustment of \$100,000 for the first comparable property and a positive adjustment of \$35,000 for the third comparable property. *Anderson testimony; Respondent Exhibit C*. There was no explanation for the changes in the February 29, 2008, appraisal. *Anderson testimony*.

- b. The Respondent further argues that the appraisals are not credible. *Meighen argument*. Ms. Anderson testified that the appraiser did not make any adjustment for the ages of the comparable houses. *Anderson testimony*. According to Ms. Anderson, the Petitioners' house was built in 1997, while the comparable properties were built in 1982, 1919, and 2003, respectively. *Id.; Respondent Exhibits B and C*. In addition, Ms. Anderson argues, the comparable properties are not comparable because of their size and location. *Id.* According to Ms. Anderson, the value of lake property is in the lake view, but the appraiser's comparable properties do not have the same view as the Petitioners' home. *Id.* Ms. Anderson testified that one of the appraiser's comparable properties is located on a pond with no view of Lake Michigan. *Anderson testimony*. The other two properties used by the appraiser have several rows of houses between them and the lake. *Id.*
- c. The Respondent contends that the Petitioners' property is valued correctly based on comparable sales. *Meighen argument*. The Respondent's witness testified that she searched for properties that were similar in size, year built, and view and located three comparables properties that sold within the relevant time frame. *Anderson testimony*. According to Ms. Anderson, 1857 Lakeside Drive sold for \$810,026 on November 12, 2004. *Id.; Respondent Exhibit E*. The house was built in 2004 and has a similar amount of living area and is similar in construction to the Petitioners' home and the lot has the same land base rate and a similar view. *Id.* Similarly, Ms. Anderson testified, 1853 Lakeshore Drive sold for \$794,851 on September 8, 2004. *Anderson testimony; Respondent Exhibit F*. The house was also built in 2004 and has a similar view, similar square footage, and similar features. *Id.* In addition, 1123 Lakeshore Drive sold for \$770,000 on April 4, 2004. *Anderson testimony; Respondent Exhibit G*. The property is located only four houses from the Petitioners' property and, again, has the same size lot and same land base rate. *Id.*

- d. The Respondent's witness contends the Petitioners' September 11, 2007, appraisal values the property at \$109 per square foot and the February 29, 2008, appraisal equates to \$124.70 per square foot. *Anderson testimony*. The Petitioners' current assessed value is \$690,000, or \$144.23 per square foot. *Id.* In contrast, the Respondent's comparable properties' sales prices ranged from \$192 to \$235 per square foot. *Id.* According to Ms. Anderson, the Petitioners' appraised values fall way outside these ranges and even the Petitioners' current assessed value is too low. *Id.* Ms. Anderson contends that the property's original assessment of \$750,800 is actually closer to the property's market value based on the property's square foot value. *Id.*
- e. Finally, the Respondent argues that the Petitioners failed to show an error in their assessment. *Meighen argument*. The Respondent's witness contends that the 4,784 square feet of living area shown on the Petitioners' property record card is correct according to the Manual. *Anderson testimony*. Ms. Anderson testified that each component of the living area is shown on the right side of the property record card. *Id.* There are two floors assessed as 1,196 sq.ft. each, an attic with 1,196 square feet of living area, of which 588 sq.ft. are finished, and an unfinished basement with 1,196 sq.ft. *Id.*; *Respondent Exhibit 1*. Similarly, Ms. Anderson contends the Petitioners' neighborhood is correct. *Anderson testimony*. According to Ms. Anderson, a neighborhood is not solely about geographic location. *Id.* Ms. Anderson testified that a neighborhood must be of similar homes and so it is not unusual to see a neighborhood that has several different neighborhoods surrounding it. *Id.* In response to Mr. Chapello's questions, however, Ms. Anderson testified that she was not involved in the determination of the Petitioners' neighborhood or the trending of the property's assessed value. *Id.*
- f. In response to cross examination regarding the land values of the neighboring parcels, the Respondent's witness testified that it is unusual for there to be a \$200,000 difference in the value of lots that are the same size. *Anderson testimony*. Ms. Anderson argued, however, that the properties were rental properties and may have been assessed using the income approach. *Id.* Further, Ms. Anderson testified there could have been a "forced" change as a result of a PTABOA decision, such as in the Petitioners' case.⁶ *Id.*

Record

13. The official record for this matter is made up of the following:
 - a. The Petition,

⁶ Ms. Anderson testified that, in some cases, the PTABOA will decide on a total value. If the office doing the correction isn't sure what the PTABOA wanted, they will just do an override on the property record card to change the total value, but leave the parcel characteristics in place and unadjusted.

b. The compact disk recording of the hearing labeled 46-022-06-1-5-00316 Chapello,

c. Exhibits:

- Petitioner Exhibit 1 – Appraisal and photograph of the Petitioners’ property,
- Petitioner Exhibit 2 – Plat of lots and easements,
- Petitioner Exhibit 3 – Property record card for the subject property,
- Petitioner Exhibit 4 – Property record card for 1133 Lakeshore Drive,
- Petitioner Exhibit 5 – Property record card for 1201 Lakeshore Drive,
- Petitioner Exhibit 6 – Property record card for 1205 Lakeshore Drive,
- Petitioner Exhibit 7 – Property record card for 1123 Lakeshore Drive,
- Petitioner Exhibit 8 – Map of Neighborhood No. 4205221,
- Petitioner Exhibit 9 – Spreadsheet of properties in Neighborhood No. 4205221,
- Petitioner Exhibit 10 – Sale information for 1205 Lakeshore Drive,
- Petitioner Exhibit 11 – Photographs of 1205 Lakeshore Drive,
- Petitioner Exhibit 12 – Photographs of 1123 Lakeshore Drive,
- Petitioner Exhibit 13 – Photographs of 1853 Lakeshore Drive, 1855 Lakeshore Drive, and 1857 Lakeshore Drive,
- Petitioner Exhibit 14 – Photographs of 1209 Lakeshore Drive,
- Petitioner Exhibit 15 – Department of Local Government Finance Order dated August 10, 2009,
- Petitioner Exhibit 16 – Form 133 dated December 14, 2007,
- Petitioner Exhibit 17 – Summary of evidence,

- Respondent Exhibit A – Property record card and photograph of the Petitioners’ property,
- Respondent Exhibit B – Appraisal dated September 11, 2007,
- Respondent Exhibit C – Appraisal dated February 29, 2008,
- Respondent Exhibit D – Aerial map,
- Respondent Exhibit E – Property record card, photograph and sales disclosure form for 1857 Lakeshore Drive,
- Respondent Exhibit F – Property record card, photograph, and sales disclosure form for 1853 Lakeshore Drive,
- Respondent Exhibit G – Property record card, photograph, and sale disclosure form for 1123 Lakeshore Drive,

- Board Exhibit A – Form 131 petition,
- Board Exhibit B – Notice of Hearing-Reschedule, dated December 1, 2010,
- Board Exhibit C – Hearing sign-in sheet,

d. These Findings and Conclusions.

Analysis

14. The most applicable governing cases are:
 - a. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Township Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
 - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's case. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. The weight of the evidence supports the Petitioners’ appraised value. The Board reached this decision for the following reasons:
 - a. The 2002 Real Property Assessment Manual defines “true tax value” as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). Appraisers traditionally have used three methods to determine a property’s market value: the cost approach, the sales comparison approach and the income approach to value. *Id.* at 3, 13-15. Indiana assessing officials generally assess real property using a mass-appraisal version of the cost approach, as set forth in the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A.
 - b. A property’s market value-in-use as determined using the Guidelines is presumed to be accurate. *See* MANUAL at 5; *Kooshtard Property, VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501,505 (Ind. Tax Ct. 2005); *P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). A taxpayer may rebut that assumption with evidence that is consistent with the Manual’s definition of true tax value. MANUAL at 5. A market value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice (USPAP) often will suffice. *See Kooshtard Property VI*, 836 N.E.2d at 505, 506 n.1. A taxpayer may also offer actual construction costs, sales

information for the subject property or comparable properties and any other information compiled according to generally accepted appraisal practices. MANUAL at 5.

- c. Regardless of the method used to rebut an assessment's presumption of accuracy, a party must explain how its evidence relates to the property's market value-in-use as of the relevant valuation date. *O'Donnell v. Department of Local Government Finance*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); see also *Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2006, assessment, the valuation date was January 1, 2005. 50 IAC 21-3-3.
- d. The Petitioners argue that their property is over-valued based on its appraised value. *Chapello argument*. In support of their contention, the Petitioners submitted an appraisal that estimated the value of the property to be \$521,500 as of December 31, 2005. *Petitioner Exhibit 1*. The appraiser is an Indiana certified appraiser who attested that he prepared the Petitioners' appraisal in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). *Id.* An appraisal performed in conformance with generally recognized appraisal principles is often enough to establish a prima facie case that a property's assessment is over-valued. See *Meridian Towers*, 805 N.E.2d at 479. The appraisal, however, values the property as of December 31, 2005. While generally the 2006 assessment is to reflect the value of a property as of January 1, 2005, pursuant to 50 IAC 21-3-3(a), local assessing officials "shall use sales of properties occurring between January 1, 2004, and December 31, 2005, in performing sales ratio studies for the March 1, 2006, assessment date." Thus, an appraisal valuing the property as of December 31, 2005, must also have some probative value. The Board therefore finds that the Petitioners raised a prima facie case that their property is over-assessed. See *Meridian Towers*, 805 N.E.2d at 479.
- e. Once the Petitioners establish a prima facie case, the burden shifts to the assessing official to rebut the Petitioners' evidence. See *American United Life Insurance Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). To rebut or impeach the Petitioners' case, the Respondent has the same burden to present probative evidence that the Petitioners faced to raise their prima facie case. *Fidelity Federal Savings & Loan v. Jennings County Assessor*, 836 N.E.2d 1075, 1082 (Ind. Tax Court 2005).
- f. Here, the Respondent presented an appraisal of the subject property prepared by the Petitioners' same appraiser to rebut or impeach the Petitioners' appraised value. *Respondent Exhibit B*. In the Respondent's appraisal, the appraiser estimated the value of the property to be \$597,000 as of December 31, 2005. *Id.* The Respondent also presented evidence of comparable sales in support of the property's assessed value. *Respondent Exhibits E, F and G*. Both the appraisal and the comparable sales occurred sufficiently contemporaneously with the January 1, 2005, valuation date for the March 1,

2006, assessment. Therefore, the Board concludes that the Respondent rebutted the Petitioners' evidence. See *Meridian Towers*, 805 N.E.2d at 479.

- g. Both the Respondent's and the Petitioners' appraisals and the Respondent's comparables sales are some evidence of the property's value. The Board must, therefore, weigh the evidence presented by both parties and determine the most persuasive evidence of the property's value.
- h. First, both parties submitted an appraisal of the property. The Petitioners' appraisal estimated the value of the property to be \$521,500 as of December 31, 2005. *Petitioner Exhibit 1*. The Respondent's appraisal estimated the value of the property to be \$597,000. *Respondent Exhibit B*. The Petitioners' representative admitted that the appraisal submitted by the Respondent was prepared by the same appraiser prior to the date of the appraisal submitted by the Petitioners. *Chapello testimony*. Mr. Chapello argues, however, that the appraiser made an error in his adjustments and therefore the Petitioners' appraisal is the "corrected" version. *Id.* The Respondent's counsel objected to Mr. Chapello's explanation as to why the same appraiser prepared two appraisals with widely divergent values on the same property as of the same valuation date. *Meighen argument*. Ms. Meighen is correct. Mr. Chapello's testimony is merely hearsay. However, the error is evident on the face of the appraisal. The appraisal submitted by the Respondent makes a positive adjustment to the sale price of the first comparable sale despite the fact that the comparable property's lot size was almost twice the size of the Petitioners' property. The "corrected" version makes a negative adjustment to account for the Petitioners' property's smaller lot size. While the appraiser chose to make a smaller adjustment than he had in the previous appraisal, it is clear in the appraisal that he made that adjustment consistent across all three comparable sales. The appraiser reduced the adjustment on the third comparable sale for lot size in his revised appraisal also. Thus, while the Board would expect some form of explanation from the appraiser as to why he revised the value of the Petitioners' property downward in a subsequent appraisal valuing the property as of the same valuation date, it is not enough to rebut the value of the Petitioners' appraisal. Therefore, because of the clear error on the face of the appraisal presented by the Respondent, the Board finds that the weight of the evidence supports the Petitioners' appraised value.
- i. The Respondent's representative also argues that the Petitioners' appraisal made no adjustments for the age of the properties even though one was built in 1919 and the subject property was built in 1997. *Anderson testimony*. Ms. Anderson also argues that the comparable properties used by the appraiser were not comparable because the value of lake property is in its lake view and one of the appraiser's comparable properties is on a pond and not Lake Michigan and the other two properties have several rows of houses between them and the lake. The Board finds these arguments unpersuasive. It is well within an appraiser's expertise to choose the sales he or she deems most comparable to the subject property and apply adjustments to those comparable

properties to value the differences between them. Absent evidence to the contrary, the comparable properties chosen by the appraiser or the adjustments made by the appraiser in a USPAP-compliant appraisal will be deemed reasonable.

- j. Finally, the Respondent offered sales and assessment information for three properties in the Petitioners' neighborhood. *Anderson testimony; Respondent Exhibits E, F and G.* According to the Respondent's representative, the three properties are similar in size, age, construction, and view to the Petitioners' property. *Id.* Because the sales prices on the properties ranged from \$770,000 to \$810,000, Ms. Anderson argues the Petitioners' property is not over-assessed. *Id.* In fact, she argues, the sales show that the Petitioners' property should be valued at \$750,800 as it was originally valued by the assessor, rather than the \$690,000 determined by the PTABOA. *Anderson testimony.* In order to effectively use the sales comparison approach as evidence in a property assessment appeal, however, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.* Here, the Respondent failed to show how the properties were comparable to the subject property. In fact, while the properties' locations were similar to the Petitioners' property, there were significant differences in the properties - most notably, the coach house on 1123 Lakeshore Drive and the substantial difference in living area and the two car garages attached to all three houses. Because the Respondent failed to value the differences between the properties, unlike the Petitioners' appraiser, the Board finds the Petitioners' appraisal to be a more credible estimate of the property's value.

Conclusion

16. The Petitioners raised a prima facie case. The Respondent provided sufficient evidence to rebut the Petitioner's case. The Board finds the weight of the evidence supports the property's appraised value of \$521,500 and finds in favor of the Petitioners.

Final Determination

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review determines that the assessed value of the Petitioners' property should be changed to \$521,500.

ISSUED: _____

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Appeal Rights -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at

<<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>.